

WETHERSFIELD ZONING BOARD OF APPEALS

PUBLIC HEARING - unofficial minutes until voted upon

April 25, 2016

The Wethersfield Zoning Board of Appeals held a public hearing on April 25, 2016 at 7:00 p.m. in the Town Hall Council Chambers, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

PRESENT: Thomas J. Vaughan Jr., Chairman
Daniel Logan, Vice Chairman
David Gustafson, Alternate, Acting Clerk
Morris Borea
Eugene Ziurys, Jr.

ABSENT: Bassia E. Dellaripa
Michael Vieira, Alternate

ALSO PRESENT: Justin LaFountain, Zoning Officer and Mary Lou Wall, Recording Secretary

Chairman Thomas Vaughan called the meeting to order at 7:01 p. m. He explained the procedures of the meeting and the hearing. The Chairman further explained that there are four affirmative votes necessary to approve an application.

The Chairman asked Commissioner David Gustafson, the Clerk to read the application.

1. **Application No. 6171-16 Victoria Guerrero Oliveira**, Seeking a variance to allow for the keeping of four (4) chickens and a coop in the rear yard closer to the street line of Meggat Park than permitted at 72 Hartford Avenue, B Single Family Residential Zone (§3.5.4).

Ms. Victoria Guerrero Oliveira, 72 Hartford Avenue, Wethersfield, CT, the applicant stating to the Commission that they have four chickens that they would like to keep on their property. The applicant did not know a permit was required to keep the chickens so they want to go through the process and the right way. Because of their lot, they can't be 100 feet away from the street, the space is awkward. Applicant is on a corner lot, the farthest away she can be from the street is about 75'. Applicant wants to put the coop there and applicant is planning on putting a fence in the area the entire backyard within 30 days if the variance is approved. Chairman asked if the applicant already had a coop there and she said yes and Chairman said as far as zoning goes it is in the wrong spot, applicant replied yes.

Chairman Vaughan asked the Zoning Officer Justin LaFountain, if it is in the wrong spot and how many feet. The Zoning Officer stated the coop has to be 100 feet away from the street lines and

they only have about 72' of width if you look at the map and 25' from the side property lines and 50' from the rear property lines. The applicant is on a corner lot. The Chairman asked if there is any other place applicant could put this legally? Zoning Officer LaFountain answered not legally, no and that is why they need a variance. Zoning regulations allow you to have 5 chickens without needing a permit and Zoning Officer LaFountain stated a permit is needed for the chickens and is able to approve it if you have 8000 s.f., and you meet the setbacks.

Chairman Vaughan speaking to the Zoning Officer wanted to know if this is because it is on an odd shaped lot. They are here not because of the chickens, but the location of the coop is that correct. Zoning Officer indicated that is correct.

Commissioner Borea wanted to know where they will put the coop. Zoning Officer pointing out on the map the location for the coop. Applicant said wherever it will make sense in the back they will put the coop whatever is easiest. They are planning on fencing in the whole area. Chairman Vaughan asked if they are planning to put up fencing and is there landscaping. Applicant answered no, only on the side yard where there are bushes. The back yard allows it to be farther away from the street, which is why they move it back there. Chairman wanted to know how long they have had the chickens and they indicated about six (6) months. Chairman Vaughan asked the applicant if they have spoken to their neighbors about this. The applicant indicating the neighbors were notified by mailing letters out and a sign in the yard and she has spoken to a few neighbors as well.

Commissioner Borea asked what the circular thing on the plans was and the Zoning Officer indicated that it is not there anymore. Commissioner Borea said there are no plans for a rooster and why do they want chickens. The applicant responded that they wanted fresh eggs and they do not plan on having roosters. Conversation was held continuing to determine what kind of a variance, and if a coop is necessary and determined it must be fenced in and there must be a coop. Determining the hardship is the irregular shape of their lot.

Chairman Vaughan asked if the applicant wishes to add anything else.

Commissioner Gustafson submitted two letters to the Commission regarding the applicant's application. Said letters are noted below and Commissioner Gustafson read both.

Ms. Kathryn Nelson, State Street, Wethersfield, CT., submitted an email to Zoning Officer LaFountain dated April 15, 2016 in favor of the applicant.

Mr. & Mrs. Tajarian of 99 Hartford Avenue, Wethersfield, CT. The second letter, sent by facsimile, dated April 19, 2016 having been read from Tajarian in opposition indicating if passed, they would hope that the presence of roosters will be disallowed. Commissioner Mario Borea asked the Zoning Officer did the people on 99 Hartford Avenue receive written notice from the applicant. The Zoning officer indicating that they did, after reviewing and referencing the notice of letters send by applicant.

Chairman Vaughan asking the public if anyone would like to come up and speak in favor of the application.

Ms. Cindy Hughes, 14 Meggat Park, Wethersfield, CT. she is on the side street and spoke in support of the application saying the owners did a wonderful job on the property and they are intending to put up a fence. It will be placed for family and they intend to put up a pool. She has spoken to them on a number of occasions. Ms. Hughes described their location being only three (3) doors from her property. They are in the middle of a lot of activity, church, park etc. and fully supports their application.

Chairman Vaughan asked the applicant if it will be a solid fence not a chain linked fence. Applicant responded yes, it will be a solid fence.

Chairman Vaughan asking if there were any others in favor of this application.

Mr. Kiernan Williams, 149 Garden Street, Wethersfield, CT in support of the application selfishly, indicating that he was just in Justin LaFountain's office regarding how to go about putting a chicken coup in his backyard. He has been doing research on raising chickens on the internet for several weeks. If you are familiar with Old Wethersfield, we have small lots. He is also on a corner lot, which presents other issues. Different rules seem to be different for the corner lots. We comply with all of the same and he gave the measurements but everything is in compliance with the exception of the lot being 100' from the road. He is 47' from the road. He just wanted to listen to the exchange this evening at the recommendation of Zoning Officer LaFountain. He feels that it is good lesson for children to learn the idea of caring, feeding and raising chickens.

Commissioner Borea asking Zoning Officer is there was a complaint on this and is that why there was an enforcement action. He indicated that there was. The Chairman asked if there was anyone that would like to speak against the application. No one from the public came forth.

Chairman Vaughan requested that the next application shall be read by Commission Gustafson.

- 2. Application No. 6172-16 Aaron Tyler** seeking a use variance to allow the existing building to be converted into a two (2) unit condominium in a single family residential zone at 32 Garden Street, B. Single Family Residential Zone (§3.2.A).

Chairman Vaughan asked the applicant if he was the owner and the applicant answered yes.

Mr. Aaron Tyler 24 Lafayette Road, Marlborough, CT. 06447 Mr. Tyler provided all the Commissioners a 3-page hand out titled "Demonstration of Hardship - Section 10.4" and gave them letters from a number of the people in support of this application. He notified 36 houses and spoke to at least 29. He had one abutting neighbor ask if he could move the parking more towards the building to give a buffer in the back. The applicant handed the Commissioners a survey, it shows the right of way. He does not think this plan works. He gave the Improvement Location Survey prepared by Joel M. Fuller of Marlborough, said Survey dated 3/15/2016, to

Commissioners. He can move this back, the neighbor wanted 10'. That is the only complaint the applicant stated as received.

Chairman Vaughan asked what is the building and the applicant gave a handout showing the building, and also gave examples of previous work he has completed as a developer. Chairman Vaughan asked if it is zoned for a family residence. Zoning Officer LaFountain indicating yes, a B Single Family Residential Zone and requires a variance because the applicant is requesting a duplex/2 family. Chairman Vaughan continuing his line of questioning saying there are a lot of two families here. The applicant pointed out the multiple family dwellings on the hand out that exist near the property. Chairman Vaughan asked the Zoning Officer if the ones that are existing are they grandfathered in. Zoning Officer saying that he believes they are grandfathered in but he has not researched all of them.

Commissioner Borea asks the applicant if he already owns this property and the applicant replied that he has title. Commissioner Borea asked if the property is currently vacant; applicant replying it is currently vacant and has been vacant for 53 years and telling the Commissioner the building is 5480 s.f., it is too big to make into a single family. Actually, he stated, he is 99.9% sure he will be living in one of the units and will split it straight down the middle. The applicant answering Chairman Vaughan question regarding approvals and saying that nothing has been approved, this is his first step. He will need to go to the Historic District after approval from this Commission. He indicated he has talked to Kristin. The applicant describes the shared driveway position, it goes up and conversation was held as to what he will do to the property i.e. landscaping and painting etc.

Chairman Vaughan asked about the type of zoning necessary to comply. Zoning Officer indicated C Residential zone and SRD for condominiums.

Commissioner Borea stated to the applicant, basically you own this property right now and it is not livable. Applicant answered no it is not livable. Commissioner continued, and you want to turn it into a two family or condominium, so that two families can live in it. Applicant answered yes. And, you are saying that it is financially not feasible to turn it into a single family home. Applicant answered, absolutely not. Are there any other homes in the area that big? Applicant said no, except the bed and breakfast on Broad Street.

Chairman asked why has it been vacant so long. Applicant said he read the long history of the building provided by the Town of Wethersfield about 165 pages formerly at one point it was a church. Then Mr. John Oldham used it as storage.

Commissioner Borea asked how applicant got title to the property. The applicant answered he doesn't but has a contract to purchase the property if the variance is granted. The applicant stated it has been on the market since December 2015, he thinks, and another agent had it six months before that, that realtor lives across the street. Commissioner Borea asked who the owner is; applicant stated John Oldham and Bank of America.

Chairman Vaughan asked if applicant spoke to the neighbors and got positive responses. Applicant Tyler indicating he got a ton of good responses. He spoke to the Chief of Police, who lives in the neighborhood, and said he had no idea that the building was empty and he spoke to the Fire Marshal. The applicant spoke to Amy at the Wethersfield Historical Society and she is in support of it and wrote a letter to the town, all the neighbors are in support of it. The only complaint is with the neighbor. He wants to move the parking lot forward a little bit to give him more of a buffer in the back, and the applicant told him if he put in a row of arborvitaes will he be happy with that.

Chairman asked the Zoning Officer if applicant gets a variance for the land use would he have to come in front of us for anything else, parking etc., and Zoning Officer answered no. Commissioner Borea said he would have to go to Historic Commission. Zoning Officer LaFountain said he would have to go to Historic for any changes in windows and egress code for dwellings and things like that.

Commissioner Borea asked why it would not be economically feasible for this to be a single family home other than what the applicant stated so far. The applicant indicated it is too big. The area has multifamily and single family homes really small except for the Carbone's across the street and to have a 5500 square foot house when everything else is 1000 or 1200 square feet; you can't make the numbers work no matter how hard you try. It needs a couple of hundred thousand dollars' worth of renovations. Commissioner Borea asked the contract price; the applicant stated \$125,000.

Commissioner Gustafson confirmed the parking issue is not related to the variance and the Zoning Officer confirmed. He asked the applicant about residing in one of the units. The applicant stated yes. He grew up in Rocky Hill, CT and moved out to Marlborough, CT about 18 years ago. Since it is now just he and his wife, they want to come back. If you did that to the second unit you may rent or lease. He stated rent or lease or sell per the applicant.

Chairman Vaughan asked if there are any other questions.

Chairman asked if anyone in the audience would like to speak in favor of the application.

Kate Milton 41 Garden Street, Wethersfield she is almost directly across the street. She purchased the property some 13 years ago. They have had to look at some properties that are in total disrepair and got tired of looking at it and inquired about it themselves. The applicant is much better suited to do the project and she is in favor of it. Old Wethersfield deserves to have the property be saved and she knows he will do a great job.

David Caruk, 149 Broad Street, Wethersfield his yard touches the yard of this home. He knows the history, when he moved here 18 years ago he asked people and it was the first Catholic Church in Wethersfield, the Sacred Heart Church built in 1880 and offered information on churches in Wethersfield that came after that. Since he lived here 18 years ago the title owner said it has been

vacant he met the owner, who used it as storage and looks like a garage. He wishes someone would do something with it. He hopes it works out and would like to see people living there and bring some life into the building.

Lou Messina 68 Farmstead Road, Wethersfield stated he is a lifelong resident of Wethersfield and his children live on Center Street. The house has been in disrepair for many years and he likes what the applicant wants to do for the neighborhood. He feels it will bring great value to the neighborhood. It will be good tax revenue for the town and supports this venture.

John Aforismo, 185 Broad Street, Wethersfield he applauds the applicant for trying to do this. He has been in the building three (3) times and knows exactly what he has to do and what it is going to cost. The only thing he sees as the real task for the Board will be if there are enough parking spaces per unit, similar to the Masonic Building. Other than that it is a massive undertaking, if someone wants to do it.

Chairman Vaughan stated he believes there are four (4) parking spots, two (2) per unit. The applicant stated there are four (4) parking spots. The Chairman asked the public if anyone else wishes to speak in favor of this application. No one from the public came up.

Chairman Vaughan asked the public for anyone to come forward who is opposed.

Vaclave Miglus, 31 Main Street and 26 Garden Street, Wethersfield he owns the property next door and indicated that he shares the driveway with the property in question. He stated the applicant has been a bit disingenuous with a couple of things. He was not spoken to by the applicant. The applicant made no attempt to contact Mr. Miglus or either of the tenants in the house. His mother is a 90 year old woman, who is the tenant downstairs, and gets around and is certainly available. If one wants to talk to her, it is not hard to do. Regarding the 5600 square feet in the building, it is true. However, a lot of the floor space was put into the building by Mr. John Oldham, when he converted it into a workshop. The footprint of the building is about 3000 square feet, which is right in line with the other houses on the street including his. By putting in four parking spaces in the rear, there is no yard at that point. Rather than being a one family home, which works well for children who can play in a yard, it turns more into an apartment building. An apartment building in which people live inside, get in their cars drive away, and do not contribute to the neighborhood. He would much prefer to see a single family. When the zoning was established in this town that is what was felt was right. Mr. Miglus described the multifamily units in the neighborhood. There are two houses that were originally built as 2 family houses and everything else as a single family house and the church. If we are looking for the highest and best use for the town would be for this to remain as a single family zone.

Chairman Vaughan asked if the main objection is the four parking spaces. Mr. Miglus replied that he wants to see someone that really wants to be there and that will have established roots there. The Chairman indicated that the applicant has stated he intends to live in one of the units, although, he is not being held to that. The gentlemen replied by telling the commissioners that he

spent a lot of time on the Historic District Commission and has seen a number of developers come through stating the same thing, and they do, shortly. That is not the same as putting down roots in the neighborhood.

Chairman Gustafson asked what he feels about the current use of the property and what his perception of the neighborhood is. Applicant responded that it is hurting. No one living there is not a benefit. Those people that were ready to do a one family project and able to do the project have gotten old.

Chairman asked if anyone else wished to speak in favor. He then asked the applicant to return.

Commissioner Gustafson questioned the square footage discrepancy. The applicant described the inside and said it was a two story structure.

Ms. Sharon Snow, 70 Kimberly Lane, Wethersfield she has been a 10-year resident of Wethersfield and she collected 50 signatures in favor of keeping it as a single family home. She indicated that many of the people that she spoke to were thinking that the only possibility was to make it a condominium. Her concern is the parking and maintaining the integrity of Historic Wethersfield.

Chairman Vaughan asked her to give some background on the petition. Ms. Snow said the people were from the neighborhood, the Main Street area, around the green, and people she was just around talking to. Many were not aware the building was there and some not aware of realistic interest in converting it to a single family home. Commissioner Gustafson asked if there was someone who was willing to bid for this contract. Ms. Snow answered yes and he will speak to this next.

Chairman Vaughan asked if they signed it because they did not want two family homes in Wethersfield, because there already are two family homes here. They would prefer, especially on the edge where the property is, to see single family homes where people are more invested in the community. Chairman Vaughan asked her if she was saying that because she felt like the people in the condo are more transient than a single family. Potentially, and she feels the parking is an issue and it could be a beautiful single family home were people are part of the community and not transient.

Commissioner Gustafson asked if she was aware of anyone else interested in trying to buy the home. She indicated she was and he will speak next. Chairman Vaughan asked the clerk to read the petition. He read the heading on the petition where the signatures were collected by Ms. Snow.

"Preserve Old Wethersfield (title). A developer has proposed turning the old church at 32 Garden Street, Old Wethersfield, CT. into a two-unit condominium building. I the undersigned, affirm that...as a resident of Wethersfield, I oppose this. And I oppose any zoning change that

would allow it. I believe the best use of this property, and for the neighborhood, is to keep its designation as a single-family residence.” And, there are 51 signatures with addresses attached.

Chairman Vaughan asked if there was anyone else and a member of the public came forward.

Dr. F. Scott Scribner, 95 Kenyon Street, Hartford, CT wanted the committee to know that the sale of 32 Garden Street is contested and currently held up in lawsuit. Mr. Scribner says this for two reasons, the first because its lawsuit casts a negative shadow upon the integrity of the deal but upon the current players involved.

Secondly, the choice between a vacant building and a condos is a false choice. His intent was and is as a single family owner occupant. Although he thought it was true that neighbors would prefer condos over a vacant building; all neighbors he talked to told him they would prefer a single family designation. Dr. Scribner saying that three neighbors he talked to feel they have been deceived and misled by the developers presentation.

His third point, many homes in the east end area of the Main Street, Old Wethersfield seem to be less well maintained, he indicated was his personal observation. He feels it is due to the concentration of multifamily homes. As a whole the single family owner occupied homes show more pride in ownership, and he is concerned about the overall shine of the condo project. He brought up a few quick clarifications saying the footprint of the church is about 2500 square feet and were there a second story that might double its size, but the applicant will never meet Fire Code to put in any second floor. He must go to the Historical District to put in a second floor and there would be no egress. It is the same size of properties in the area and even it were a 5000 square feet, he feels that a third of the homes on Broad Street are close to 5000 square feet.

His fourth point, for those passionate about historic properties, as he is, knows they are money pits but love them anyway. What historical loss do we risk in turning this important historic building over to a for profit enterprise. Parking, he continued, asking will people have only two cars, will they have two cars and a boat, will they have three cars, or will they have six cars. This yard is so small you cannot get around one side of the building at all with parking and the other you must use an egress that runs over someone else’s property and to burden that neighbor with two units driving across their egress and then having their entire backyard as a blacktop, seems like an undue burden. For those reasons, he urged the Commission to maintain the current single family ordinance.

Commissioner Borea asked where the litigation is pending. Dr. Scribner answered Hartford Commissioner, Superior Court. The applicant stated there is a lis pendens, there is a record in the town hall you can check. Commissioner Borea asked if it was his understanding that there was an offer made to purchase the property and to maintain it as a single family home. Dr. Scribner answered yes and that he was the person and it predated the other contract.

Commissioner Gustafson referenced his comment speaking to three neighbors in the area and that they were deceived. Dr. Scribner stated he was not trying to say anything negative about the developer but the way something is presented can stack the answer. This building was not a vacant building sitting for years. It was Mr. Oldham's choice to use it as storage.

Chairman asking if anyone would like to speak against the application. Applicant Tyler requested to speak again. Commissioner Borea thought that even though the applicant did have his opportunity to speak, given the opposing testimony, he felt it would be fair, he should have a chance to respond and the Chairman agreed.

Mr. Tyler, the applicant stated he is not changing any of the window locations and has already checked with Mr. Fred Valente, the Town Building Official and they went over it. They meet egress because they are such big windows. The same with the rear and in the middle there will be a bathroom, a hallway going down, front bedroom, rear bedroom and a bathroom in the center and there will be another bedroom on the first floor. As far as Mr. Tyler's contact with the public, he stated he didn't twist anyone's arm to get these letters, he stated he told them to write what they wanted. As far as it going for a single family dwelling in that neighborhood, he stated, it doesn't fit. Across the street are capes and ranches the only one that is big is Mr. Carbone's and he is sure it is not 2200 square feet and all the rest are multifamily and they are quite larger. There will be two (2) cars per unit in the condo docs, no boats; there is no other place to put them. He is going with a condo so they have a vested interest in it not as renters, Mr. Tyler stated.

Chairman Vaughan asking Zoning Officer LaFountain if this were a single family can you put four (4) parking spaces. Zoning Officer answered affirmatively yes. Chairman closed the public hearing.

Chairman asked Commissioner Gustafson to read the application.

Application No. 6171-16 Victoria Guerrera Oliveira, seeking a variance to allow for the keeping of four (4) chickens and a coop in the rear yard closer to the street line of Meggat Park than permitted at 72 Hartford Avenue, B Single Family Residential Zone (§3.5.4).

Motion to Approve as Submitted by Commissioner Logan.

Chairman clarified that there were no roosters. Commissioner Borea made a friendly amendment to the motion. Zoning Officer LaFountain being consulted on this indicated the requirements are for chickens to be kept 100' from the street property line and 25' from the side property line and 50' from the rear property line. Commissioner Borea stated as proposed from where the drawing is. And, we do have an objection from a neighbor and therefore will limit it for three (3) years and have applicant come back if there are any problems take into consideration the neighbors, since they are abutting and have standing.

Motion to Approve with Stipulations, based on location represented in the drawing and applicant must meet all side and street and rear property lines regulations and with a lapse after three (3) years. By Commissioner Logan

Second by Commissioner Gustafson as amended

Aye - All -- Commissioners, Borea, Gustafson, Logan, Vaughan and Ziurys

Nay - None

Abs. - None

Motion passes 5-0

Chairman Vaughan called for the next application. Commissioner Gustafson read the application.

Application No. 6172-16 Aaron Tyler, seeking a use variance to allow the existing building to be converted into a two (2) unit condominium in a single family residential zone at 32 Garden Street, B Single Family Residential Zone (§3.2.A).

Chairman Vaughan stated he did not feel the Board had all the information. Commissioner Borea stated that typically use variances are not favored. The Town has zoning regulations and so when we vote to do this, it is for one particular owner and for one particular piece of property, and it doesn't really control over how other properties are going to be developed or anything else; we are going to allow one person to break the rules. Usually, it is going to be based on the unique characteristics of the property etc. And, sometimes, Commissioner Borea thinks, it is appropriate to take into consideration the financial considerations. Some properties have zoning and then the neighborhood moves away from the zoning and you really can't use it for what it was anymore. Yet, here in the record we have in front of us, we had a gentleman come up and tell us that is exactly what he wanted to do. Commissioner Borea understood this gentleman who wants to invest money in the neighborhood and make it into a two (2) family condominium, but he thought the type of information needed to establish the right to a variance is that otherwise there is no value to the property. The Commissioner was not convinced there was no value to the property. A direct abutter objected, and the Commissioner can't ignore what he had to say because he lives right next door. In his view if this were taken to court, it would not be approved. If he filed an appeal, the court would overrule the Board in the Commissioner's view. Commissioner Borea stated he could not support this under these circumstances.

Chairman Vaughan stated it was not the way it was presented but when you hear that the property has been vacant for fifty three (53) years, his impression is that they could not sell it or could not get someone to use it as a single family. There is a gentleman saying he wants to buy it as a single family and the other gentleman says he wants to buy it for condos. The Chairman stated he didn't think this has been resolved outside of the Board.

Commissioner Gustafson also thought not all of the information was available and there is some sort of legal action pending.

Commissioner Logan echoed Commissioner Borea's point with the issue of the hardship is whether there is a lack of feasibility to turn this into a single family dwelling and he did not think the applicant has met that burden at this point.

Chairman Vaughan stated the Board does listen to the neighbors and though several neighbors that speak in favor, there is a petition of 51 people in Wethersfield that was against it along with the next door neighbor and someone that has a conflict. The Chairman asked Commissioner Ziurys his opinion.

Commissioner Ziurys stated he thought they were not going to proceed.

Motion to deny without prejudice by Commissioner Morris Borea

Second by Commissioner Daniel Logan

Aye - All Commissioners, Borea, Gustafson, Logan, Vaughan and Ziurys

Nay - None

Abs. - None

Motion denied without prejudice 5-0

4.Approval of January 25, 2016 Minutes

Tabled until next meeting since Commissioners necessary are not present.

5. Approval of March 28, 2016 Minutes

Motion to Approve March 28, 2016 Minutes by Commissioner Eugene Ziurys

Second by Commissioner Morris Borea

6. Other Business

None

7. Adjournment.

Meeting Adjourned 8:15 p.m.